



# THE MAINE CEO

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PROGRAM INFORMATION

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## **BUILDING CODE WORKING GROUP REPORT**

The Building Code Working Group was formed in March of 2003 in response to public hearings conducted during the last Legislative session. The Building Code Working Group produced a report that will be presented to the Joint Standing Committee on Business, Research and Economic Development in January. A copy of this report is included below.

## **REPORT OF THE BUILDING CODE WORKING GROUP TO THE JOINT STANDING COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT CONCERNING ADOPTION OF A STATEWIDE BUILDING CODE**

**SEPTEMBER 24, 2003**

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## **I. Organization**

The Building Code Working Group (the “Group”) was formed in response to an invitation from Bruce Smith, President of the Maine Building Officials and Inspectors Association (MBOIA), to “all interested parties” to discuss development and adoption of a statewide building code. The Group first convened on March 13, 2003. A list of the identified stakeholders, contacts and whether each stakeholder was notified of the Group’s activities is attached as an appendix to this report.

The Group was led by a Steering Committee composed of representatives of the following organizations: the State Fire Marshal’s Office, the Maine Fire Chiefs Association, Associated Constructors of Maine, the Maine Home Builders and Remodelers Association, the American Institute of Architects, the Construction Specifications Institute, the Maine Building Officials and Inspectors Association, the Maine Municipal Association, the Plumbing Heating and Cooling Contractors of Maine, and the State Planning Office.

After holding a handful of meetings, at the Steering Committee’s direction the Group hired Jeff Edelstein of Edelstein and Associates to facilitate further meetings. Mr. Edelstein had previously served as the facilitator for the Maine Building Rehabilitation Code Advisory Council in 2001 and as the moderator at the Building Code Institute roundtable discussion in 2002. The facilitator position was funded by the State Planning Office.

## **II. Mission**

The Group was not formed at the direction of the Legislature’s Joint Standing Committee on Business, Research and Economic Development. However, at a public hearing on February 18, 2003 concerning LD 401, “An Act to Require the Plumbers Examining Board to Adopt the Uniform Plumbing Code,” Mr. Smith of the MBOIA called to the Committee’s attention the Group’s formation, and noted that the Group’s recommendation concerning statewide codes might prove useful in the Committee’s deliberations. When the Committee later voted to carry over LD 1025, “An Act to Ensure Uniform Code Compliance and Efficient Oversight of Construction in the State,” it was with the understanding that the Group would report its recommendation concerning adoption of a statewide building code to the Committee over the legislative interim.

After discussion by both the Steering Committee and the full Group at several meetings, the Group adopted a mission statement and a goal statement. The mission statement was as follows:

“The mission of the Building Code Working Group is to recommend a voluntary model building code for the State of Maine.”

The Group spent significant time and energy contemplating whether the code should be mandatory or voluntary. As discussed in greater detail in the Recommendation section of this report, in the case of a residential code, the Group’s ultimate recommendation is bifurcated: a mandatory code is proposed if certain conditions are met (i.e. full State funding and

enforcement), and a voluntary code is proposed if those conditions are not met. In the case of a commercial construction code, the Group recommends a voluntary code.

The Group adopted the following goal statement as well:

“The goal of the Building Code Working Group is to cause the State, by legislative action, to adopt and maintain a model building code, to be known as the ‘Maine State Building Code.’”

As with the Group’s mission statement, the goal statement was a guidepost for the Group to reach a consensus recommendation of greater depth and detail, which follows in the next section of this report.

The Group drew upon three major sources of information in forming its recommendations: the recommendations of the 1998 Building Code Task Force, representatives of the competing code families (NFPA and ICC), and the expertise of members of the Group. The Group’s recommendations and conclusions were formed and articulated only after comprehensive presentations and discussion concerning the merits of the various codes and issues to be addressed in implementing the codes.

### **III. Recommendations**

Through discussion and deliberation, the Group ultimately focused its efforts on attempting to form consensus on the following issues:

- Choice of a family of statewide building codes;
- The degree of uniformity of these codes, including the question of mandatory versus voluntary adoption by municipalities and the ability of municipalities to amend the codes; and
- Implementation of the codes, including issues of enforcement, funding, inspections, training, education, testing and licensure.

The Group’s recommended courses of action, all of which represent consensus of the Group’s members except as noted, are detailed below.

#### **1. Choice of Code**

**The Group recommends that the State of Maine adopt the International Residential Code (“IRC”) and International Building Code (“IBC”). In any conflict between these codes<sup>1</sup> and any codes currently adopted by the State, or between these codes and any codes adopted by the State in the future, the more restrictive shall prevail. Any language in the IRC or IBC that directs or suggests automatic adoption by reference of codes that are in conflict with State codes must be struck.**

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<sup>1</sup> The term “codes” includes codes and standards.

*Notes:*

The Group's qualified recommendation of adoption of the IBC and IRC reflects the Group's preference for the "I-Code" family, but also the recognition that certain codes currently in use in the State should be allowed to continue. For instance, the Group noted that NFPA-1 (the Uniform Fire Code) and NFPA-101 (the Life Safety Code), as enforced and implemented by the State Fire Marshal's Office, should be allowed to remain in place, as that code has been developed and tailored to address the particular needs of the State. The Group specifically did not address the question of whether the International Plumbing Code (IPC), one of the family of I-codes, should supplant the existing State plumbing code.

The State Fire Marshal's Office was particularly concerned that language in the IBC directing or suggesting that other I-Codes are automatically adopted by reference be struck, so that the IBC and IRC be adopted only as stand-alone codes. Existing codes should not be preempted, and the State's ability to adopt future codes should not be limited.

## **2. IRC**

The Group's recommendation for adoption, uniformity and implementation of the IRC can best be described as a "package" recommendation: the recommendation includes several elements, all of which must be present in order for the consensus of the Group to be preserved. Additionally, the recommendation reaches two distinct conclusions depending on whether or not the State commits to pay for enforcement of the code. The Group's recommendation is as follows:

**(1) IF the State of Maine adopts a system of licensing, testing and training contractors involved in building 1-2 family dwellings to the IRC;**

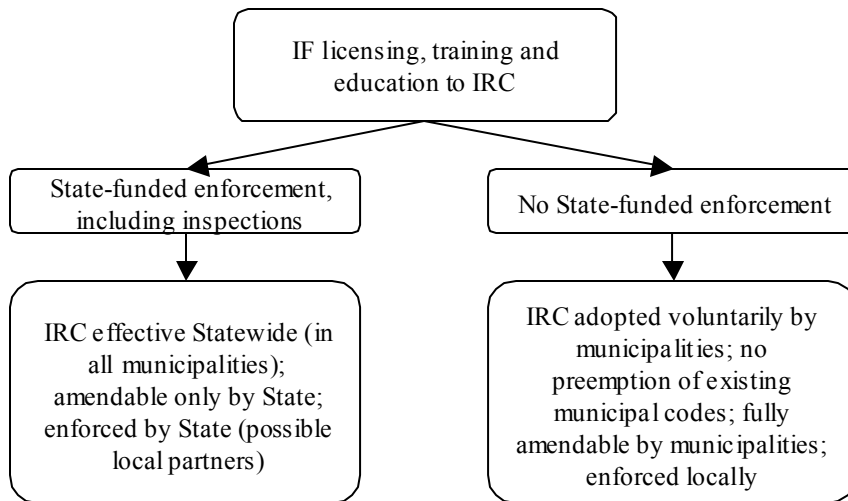
**AND**

**(2) IF the State provides funding for enforcement of the IRC, including systematic inspections, THEN the IRC should be adopted Statewide, should supplant all existing municipal residential building codes and apply to municipalities that currently have no code, should be amendable only by the State, and should be enforced by the State (possibly in partnership with municipalities as appropriate);**

**OR**

**(3) IF the State does not provide funding for enforcement of the IRC, THEN the IRC should be adopted only voluntarily by the municipalities (i.e., if a municipality chooses to adopt a new code, it must adopt the IRC), should not supplant existing municipal residential building codes, should be fully amendable by the municipalities that adopt it, and should be enforced by the municipalities that adopt it.**

The Group's recommendation also can be expressed graphically in the flowchart below.



### **3. IBC**

The Group's recommendation of adoption of the IBC, covering commercial construction, includes the details that follow.

**The Group recommends that adoption of the IBC be voluntary by municipalities, meaning that if a municipality chooses to adopt a new code governing construction for other than 1-2 family dwellings, it may only adopt the IBC. In addition, the code should be fully amendable by the municipalities, without a requirement for State approval, but with a requirement that municipalities notify the State of local amendments.**

The Group was somewhat divided on the extent to which the code should be amendable by municipalities: some felt that municipalities should have authority only to amend the code to make it more restrictive, and others believed municipalities should have authority to amend the code in any fashion. The Group agreed, however, that municipal amendments historically have been made to make building codes more restrictive, and therefore that this issue was not of particular practical significance.

### **4. Administration**

Finally, the Group's recommendation for adoption of the IRC and IBC is further contingent upon establishment of an administering unit for these codes.

To this end, **the Group strongly supports the creation of adequate staff positions to provide training, technical assistance, updating and interpretation concerning the codes to those who will be governed by them.**

The Group expresses no opinion as to placement of this administering unit, whether it be in the State Fire Marshal's Office, the State Planning Office, the Office of Licensing and Registration (within the Department of Professional and Financial Responsibility), some other agency or an entirely new agency created for this purpose.

#### **IV. Conclusions**

The Group believes that the IRC and IBC should be adopted in the State of Maine. The IBC should be a voluntary code; whether the IRC should be mandatory or voluntary depends on the State's willingness to fund and enforce the code. In either case, if a licensing system for contractors is created, training and education should be provided and adequate staff should be allotted to administer the code. The Group feels that these elements form a package recommendation and, if possible, all should be enacted simultaneously.

The Group also greatly appreciates the opportunity for input into the legislative process, and for the Committee's courtesy in allowing the Group to present this report.

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### **Update on LD 1551 – An Act To License Home Building and Improvement Contractors**

This Act is in the process of being reviewed by a working group lead by Chuck Dow of the Attorney General's Office. The working group consists of architects, engineers, contractors, Maine Municipal Association, realtors, insurance representatives and other interested individuals. This document is still in the revision stage. The IRC has been identified as the code of choice for this Act.

#### **UPCOMING WORKSHOPS**

|                      |  |
|----------------------|--|
| <b>November 2003</b> | <b>“Forestry 101”</b><br><b>November 20<sup>th</sup> – South Portland</b>  |
| <b>January 2004</b>  | <b>Court Rule 80K (80K 12)</b><br><b>January 8<sup>th</sup> &amp; 22<sup>nd</sup> – South Portland</b><br><b>January 13<sup>th</sup> &amp; 27<sup>th</sup> – Orono</b><br><b>January 15<sup>th</sup> &amp; 29<sup>th</sup> - Auburn</b>  |
| <b>February</b>      | <b>“Forestry 101”</b><br><b>February 12<sup>th</sup> – Black Bear Inn, Orono</b><br><b>Issues in Land Use</b><br><b>February 17<sup>th</sup> – South Portland</b><br><b>February 20<sup>th</sup> - Auburn</b><br><b>February 24<sup>th</sup> – Orono</b><br><b>February 25<sup>th</sup> – Presque Isle</b> |

**March**

**Electrical Inspection  
Dates to be announced.**

## **ADMINISTRATION**

Reminder that status reports will be sent out to all certified CEOs and LPIs the beginning of February. We offer this service as an aid for you to keep track of your recertification credits. Please check your report carefully. We try very hard to make sure they are accurate, however, if there is a problem it is much easier to correct it now then three years down the line. An "Inquiry and Correction" form will be included with the mailing, please use this form to register your concern(s).

## **STAFFING**

The Planner II position in the Code Enforcement Officer Training and Certification Program remains empty and the funding has been eliminated. We'll keep you posted should the status of this position change.

## **WEB SITE**

There have been several additions to the Code Enforcement Officer Training and Certification web site. One of the additions is a "Frequently Asked Questions" category. If you have suggestions for additional questions, please send them to us.

**MAY YOU HAVE A WONDERFUL HOLIDAY SEASON!!  
Stay safe!**